

# POLNER LAW OFFICE

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**REDACTED VERSION**

October 26, 2016

**VIA UNITED STATES POSTAL SERVICE EXPRESS MAIL #EI 977266809 US  
AND ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

Re: SPOT ON NETWORKS, LLC  
Petition for Designation as an LBP EFT; WC Docket No. 09-197

Request for Confidential Treatment Pursuant to 47 C.F.R. §§ 0.457 and  
0.459

Dear Ms. Dortch:

Enclosed herewith for filing on behalf of SPOT ON NETWORKS, LLC (“SPOT ON”) are an original and one copy of its Petition for Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier in WC Docket No. 09-197. SPOT ON specifically **REQUESTS CONFIDENTIAL TREATMENT** pursuant to Sections 0.457 and 0.459 of the Commission’s rules of Exhibit “A” attached to the Declaration of Richard Sherwin, which Declaration accompanies the within petition. Exhibit “A” is Spot On’s financial statements and should not be publicly disclosed.

SPOT ON requests pursuant to Sections 0.457 and 0.459 of the Commission’s rules, that the Commission withhold from any public inspection and accord confidential treatment to the highly confidential, business sensitive information contained in Exhibit “A” (the “Confidential Information”). This letter and its enclosures are being filed both by (a) delivery to the Secretary of one original and one copy of the unredacted, paper version (containing the

financial information); and (b) electronically on the Commission's EFCS with a redacted version (not containing the financial information). All of the Confidential Information has been redacted from the version filed electronically with the EFCS.

The Confidential Information constitutes highly sensitive commercial information that falls within an exemption to the Freedom of Information Act ("FOIA"). FOIA provides that public disclosure "does not apply to matters that are ... (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4). Accordingly, the Confidential Information is "confidential" under Exemption 4 of FOIA.

Because this is a voluntary filing, if the Commission denies this request for confidential treatment, Spot On requests that the Confidential Information to be returned and not be made available to the public.

In support of this request and pursuant to Section 0.459(b) of the Commission's rules Spot On states as follows:

1. Identification of the Specific Information for Which Confidential Treatment Is Sought (Section 0.459(b)(1))

SPOT ON seeks confidential treatment with respect to the Confidential Information—all of which has been redacted from the version of the Petition filed electronically on the Electronic Comment Filing System. The Confidential Information is private commercial financial information set forth on Exhibit "A" attached to the Declaration of Richard Sherwin filed in support of the Petition.

2. Description of the Circumstances Giving Rise to the Submission (Section 0.459(b)(2))

SPOT ON is submitting supporting information with respect to its Petition for Designation as a Lifeline Broadband Provider.

3. Explanation of the Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged (Section 0.459(b)(3))

SPOT ON is a privately owned business. The Confidential Information constitutes highly sensitive information about SPOT ON's finances. This financial information constitutes private commercial information which is not made available to the public and which would customarily be guarded from competitors.

4. Explanation of the Degree to Which the Information Concerns a Service that Is Subject to Competition (Section 0.459(b)(4))

SPOT ON provides wireless BIAS to non-Lifeline customers in the unlicensed spectrum and when its Petition is granted, will provide wireless BIAS to Lifeline customers in the unlicensed spectrum. The market for such services is highly competitive.

5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))

Disclosure of the Confidential Information would provide SPOT ON's competitors with sensitive insights related to SPOT ON's financial capabilities, which would work to

SPOT ON's competitive disadvantage. Allowing a competitor to gain knowledge of SPOT ON's finances by examination of the Confidential Information filed in support of SPOT ON's Petition would materially harm SPOT ON's ability to compete.

6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))

SPOT ON keeps its Confidential Information private. It does not make the Confidential Information publicly available. This information would not be disclosed without a non-disclosure agreement or equivalent confidentiality obligation.

7. Identification of Whether the Information Is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))

SPOT ON has not made the Confidential Information publicly available.

8. Justification of the Period During Which the Submitting Party Asserts That Material Should Not Be Available for Public Disclosure (Section 0.459(b)(8))

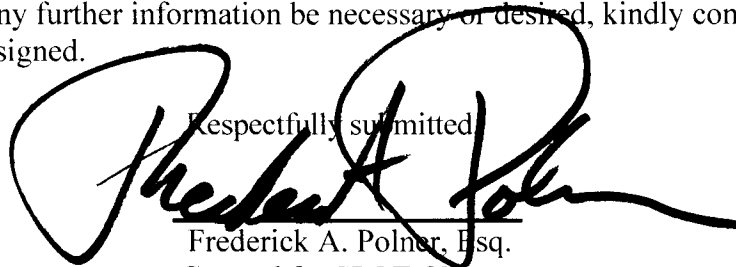
SPOT ON requests that the information remain confidential for three years, because its disclosure during that time could give SPOT ON's competitors insights into how to compete with SPOT ON or prejudice it in transactions.

9. Any Other Information That the Party Seeking Confidential Treatment Believes May Be Useful in Assessing Whether Its Request for Confidentiality Should Be Granted (Section 0.459(b)(9))

Data subject to this request also would qualify for Exemption 4 of the Freedom of Information Act. Exemption 4 protects information which is treated in a confidential manner and which is commercial or financial in nature and obtained from a private party. 5 U.S.C. § 552(b)(4).

By granting the within request for non-public disclosure, the public interest, convenience, and necessity would be served by encouraging privately owned companies to seek designation as a LBP ETC without fear that their privately held financial information would be made public.

Should any further information be necessary or desired, kindly communicate directly with the undersigned.

Respectfully submitted,  
  
Frederick A. Polner, Esq.  
Counsel for SPOT ON

Cc:

Christian Hoefly, Telecommunications Access Policy Division w/ encl.(unredacted)  
via email only: Christian.Hoefly@fcc.gov

	)	
In the Matter of	)	
	)	
Telecommunications Carriers Eligible to	)	
Receive Universal Service Support	)	WC Docket No. 09-197
	)	
SPOT ON NETWORKS, LLC	)	
	)	
	)	
Petition for Streamlined Designation as a	)	
Lifeline Broadband Provider Eligible	)	
Telecommunications Carrier	)	
	)	
	)	

**SPOT ON NETWORKS, LLC**  
**PETITION FOR STREAMLINED DESIGNATION AS A LIFELINE BROADBAND**  
**PROVIDER ELIGIBLE TELECOMMUNICATIONS CARRIER**

Counsel to Spot On Networks, LLC

## **INTRODUCTION**

Spot On Networks, LLC (“Spot On Networks” or the “Company”) requests designation as a Lifeline Broadband Provider (LBP) eligible telecommunications carrier (ETC), pursuant to section 214(e)(6) of the Communications Act of 1934 (the Act), section 54.202 of the Commission’s rules, the Lifeline Order (FCC 16-38, released April 27, 2016), and the Lifeline Broadband Provider Guidance Public Notice (released September 30, 2016) for the limited purpose of providing broadband internet access service (“BIAS”) supported by the Universal Service Fund (USF) Lifeline program.

Spot On Networks satisfies all of the requirements for streamlined designation as an LBP ETC in accordance with section 54.202(d)(1) of the Commission’s rules. It is committed to complying with all of the Commission’s rules and regulations for ETCs providing broadband, including the minimum service standards set forth in section 54.408 of the Commission’s rules. The Company has an established track record of providing fixed broadband service in the unlicensed spectrum to non-Lifeline customers, providing highspeed broadband service without interruption for a period of time spanning over a decade. As of the date of this filing, the Company is providing highspeed broadband service to 2300 non-Lifeline customers. Accordingly, its LBP ETC designation and this Petition should be deemed granted within 60 days.

## PETITION

AND NOW COMES SPOT ON NETWORKS, LLC and by and through its attorney, Frederick A. Polner, Esq. and hereby petitions the Chief, Wireline Competition Bureau, Federal Communications Commission for streamlined designation as a Lifeline Broadband Provider eligible telecommunications carrier. In support whereof, the following is averred:

1. Spot On Networks Qualifies for Streamlined Designation

LBP will be designated by the Bureau and will qualify for streamlined designation if two criteria are met: (1) the provider serves at least 1,000 non-Lifeline customers with BIAS at the time of filing; and (2) the provider has offered broadband service to the public for at least 2 years preceding the filing date, without interruption. Spot On Networks meets both criteria.

As of the date of this filing, the Company is providing highspeed broadband service to 2300 non-Lifeline subscribers. Furthermore, the Company has offered fixed broadband service in the unlicensed spectrum to the public without interruption for a period of time spanning over a decade – that is to say well over the required 2 year period.

2. Minimum Service Standards

Providers seeking designation as an LPB must meet the requirements established in

section 214(e) of the Act and sections 54.201 and 54.202 of the Commission's rules.

Attached to this Petition is the Declaration of Richard Sherwin, the Company's CEO, certifying that the Company will comply with the service requirements applicable to the support which it will receive, including any applicable minimum service standards and recognizes that such requirements may change over time. As to these changes, Mr. Sherwin certifies, as well, that the Company will adhere to any future requirements, additions, or amendments of the Lifeline program. It specifically understands that LBPs must continue to offer plans that include qualifying BIAS throughout Spot On Network's designated service area even as the minimum service standards for qualifying BIAS are updated annually.

3. Emergency Situations

The Company has the ability to remain functional in emergency situations, including a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

Regarding back-up power, the network's wireless access points are powered over Ethernet connections (bypassing electrical circuits) emanating from network controllers and switches which receive their electric power from storage batteries. As to rerouting of traffic around damaged facilities, traffic is automatically and seamlessly rerouted to redundant fiber connections. As to traffic spikes resulting

from emergency situations, the Company has built into its broadband network extra capacity to account for such possibilities.

4. Consumer Protection and Service Quality Standards

Spot On Networks is offering wireless BIAS. It has committed to complying with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service, as it may be amended from time to time.

5. Financial Qualifications

Spot On Networks is financially capable of providing Lifeline service in compliance with subpart E of Part 54 of the Commission's rules.

Spot On Networks has been in business since 2005 as a Wi-Fi service provider. The stakeholders in Spot On Networks represent some of the founders of the United States cellular telephone industry as well as being pioneers in developing other wireless communications services. It has invested \$40 million in software, equipment (on and off premises) and operational support systems ("OSS") and provisioning support systems ("PSS"). It is one of the nation's largest providers of wireless broadband service to multi-tenant residential and commercial buildings. It has longstanding broadband service relationships with building owners and managers, including some of the country's largest residential Real Estate Investment Trusts ("REITs"), such as Avalon Bay Communities, Equity Residential, and The Related Companies. Attached to this Petition are Financial



Statements which demonstrate Spot On Network's financial capability.

Spot On Networks is a privately held company. Accordingly, its financial information is not routinely made available to the public. These Financial Statements are being filed with the Commission subject to a request for Confidential Treatment. Accordingly, the Financial Statements publicly filed and made available in the Commission's Electronic Comment Filing System ("ECFS") have been redacted.

6. Technical Qualifications

The Company is fully qualified to be designated as a LBP ETC.

The Company has been operating since 2005. The Company provides 24 hours per day, 7 days per week, network monitoring and customer service from a Network Operations Center (NOC") domestically located.

The Company has completed the buildout of its broadband network in the Service Area (discussed below). This network consists of a 48 Single Mode armored fiber optic cable originating in a Main Distribution Frame ("MDF") and proceeds from there via interior conduit or through underground tunnels in a Ring Pattern to provide connectivity throughout the Service Area, and then by this armored fiber cable back to the originating MDF. Along the way, the fiber optic cable terminates in multiple Independent Distribution Frames ("IDFs") and cabinet clusters. CAT5

fiber then carries the broadband traffic the rest of the way to Wi-Fi Access Points located throughout the Service Area from which subscribers are wirelessly connected to the internet. This Ring Pattern allows equipment, such as Ethernet switches, to connect around the ring in both directions and back to the IDF where the block main switch is located. Should a fiber cable link be cut or be disrupted anywhere else in the in this ring, a secondary port will automatically activate, usually within 50 milliseconds. The Spot on Networks network terminates at demarcations points located within the Service Areas. Broadband connectivity to the internet is continued beyond demarcation points by utilizing backhaul connections to points of presence on the internet over high capacity fiber optic cables furnished by companies specializing in backhaul connectivity.

Spot On Networks maintains and repairs its network within the Service Area by utilizing a Network Control Center which operates 24 hours per day, 7 days a week. Service technicians are dispatched from the Network Control Center on an as-needed basis to troubleshoot and fix problems which may arise in the operation of the network. Routine maintenance and repairs are scheduled in advance. The network infrastructure is fully maintained and repaired to assure all Lifeline service requirements can be met.

#### 7. Terms and Conditions of the BIAS

The Company will make available to each subscriber wireless BIAS connectivity for five devices at speeds up to 20Mbps downloading and 20 Mbps uploading for

each device. There is no cap on data usage. The price per month is \$9.75. There are no setup or additional fees. (The Company does not furnish any devices.) No contract is required.

#### 8. Service Area

The Service Area is the New York City Housing Authority Queensbridge multi-tenant residential housing site (the “Site”). The Site is located within the New York City Borough of Queens, within ZIP code 11101. The Site is bounded by Vernon Boulevard, 40th Avenue, 21<sup>st</sup> Street, and Queensbridge Park Greenway.

#### ANTI-DRUG ABUSE CERTIFICATION

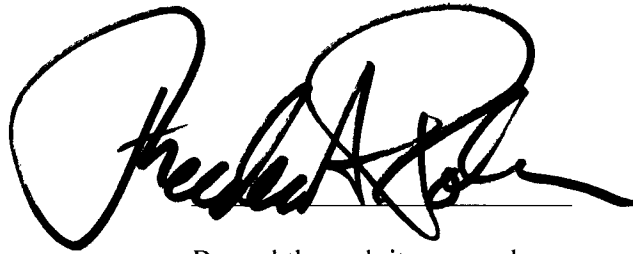
Spot On Networks certifies that no party to this Petition is subject to a denial of federal benefits that includes Commission benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

#### CONCLUSION

For the foregoing reasons, Spot On Networks, LLC submits that grant of the instant Petition for designation as Lifeline Broadband Provider Eligible Telecommunications Carrier is in the public interest, convenience and necessity and is warranted in accordance with section 214(e)(6) of the Act.

Respectfully Submitted

SPOT ON NETWORKS, LLC

A handwritten signature in black ink, appearing to read "Frederick A. Polner", written over a horizontal line.

By and through its counsel  
Frederick A. Polner, Esq  
Polner Law Office  
261 Bradley Street  
New Haven, CT 06510

October 27, 2016

### DECLARATION OF RICHARD SHERWIN

I am Richard Sherwin, an individual over the age of eighteen (18) years, having a business address of 55 Church Street, New Haven, CT 06510. This Declaration is made in support of Spot On Network, LLC's Petition For Streamlined Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier. In support whereof, it is averred:

1. I am the Chief Executive Officer of Spot On Networks, LLC (the "Company"). I am authorized by the Company to make this Declaration.
2. As of the date of this filing, the Company is providing highspeed broadband service to 2300 non-Lifeline subscribers. The Company has been offering fixed broadband service in the unlicensed spectrum to the public without interruption for a period of time spanning over a decade
3. The Company certifies that it will comply with the service requirements applicable to the Lifeline support which it will receive, including any applicable minimum service standards and recognizes that such requirements may change over time.
4. The Company certifies that it will adhere to any future requirements, additions, or amendments of the Lifeline program. It specifically understands that LBPs must

continue to offer plans that include qualifying BIAS throughout Spot On Network's designated service area even as the minimum service standards for qualifying BIAS are updated annually.

5. The Company certifies that it has the ability to remain functional in emergency situations, including a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. The network's wireless access points are powered over Ethernet connections (bypassing electrical circuits) emanating from network controllers and switches which receive their electric power from storage batteries. As to rerouting of traffic around damaged facilities, traffic is automatically and seamlessly rerouted to redundant fiber connections. As to traffic spikes resulting from emergency situations, the Company has built into its broadband network extra capacity to account for such possibilities.
6. The Company certifies it is committed to complying with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service, as it may be amended from time to time.
7. The Company has been in business since 2005 as a Wi-Fi service provider. The stakeholders in Spot On Networks represent some of the founders of the United States cellular telephone industry as well as being pioneers in developing other wireless communications services. It has invested \$40 million in software, equipment (on and off premises) and operational support systems ("OSS") and provisioning support systems ("PSS").

8. The Company is one of the nation's largest providers of wireless broadband service in the unlicensed spectrum to multi-tenant residential and commercial buildings. It has longstanding broadband service relationships with building owners and managers, including some of the country's largest residential Real Estate Investment Trusts ("REITs"), such as Avalon Bay Communities, Equity Residential, and The Related Companies.
9. Attached to this Declaration are Financial Statements which demonstrate Spot On Network's financial capability (redacted version publicly available on ECFS).
10. The Company provides 24 hours per day, 7 days per week, network monitoring and customer service from a Network Operations Center (NOC") domestically located.
11. The Company has completed the buildout of its broadband network in the Service Area (discussed below). This network consists of a 48 Single Mode armored fiber optic cable originating in a Main Distribution Frame ("MDF") and proceeds from there via interior conduit or through underground tunnels in a Ring Pattern to provide connectivity throughout the Service Area, and then by this armored fiber cable back to the originating MDF. Along the way, the fiber optic cable terminates in multiple Independent Distribution Frames ("IDFs") and cabinet clusters. CAT5 fiber then carries the broadband traffic the rest of the way to Wi-Fi Access Points located throughout the Service Area from which subscribers are wirelessly connected to the internet. This Ring Pattern allows equipment, such as Ethernet switches, to connect around the ring in both directions and back to the IDF where the block main switch is located. Should a fiber cable link be cut or be disrupted

anywhere else in the in this ring, a secondary port will automatically activate, usually within 50 milliseconds. The Spot on Networks network terminates at demarcations points located within the Service Areas. Broadband connectivity to the internet is continued beyond demarcation points by utilizing backhaul connections to points of presence on the internet over high capacity fiber optic cables furnished by companies specializing in backhaul connectivity.

12. The Company maintains and repairs its network within the Service Area by utilizing a Network Control Center which operates 24 hours per day, 7 days a week. Service technicians are dispatched from the Network Control Center on an as-needed basis to troubleshoot and fix problems which may arise in the operation of the network. Routine maintenance and repairs are scheduled in advance. The network infrastructure is fully maintained and repaired to assure all Lifeline service requirements can be met.
13. The Company will make available to each subscriber wireless BIAS connectivity for five devices at speeds up to 20Mbps downloading and 20 Mbps uploading for each device. There is no cap on data usage. The price per month is \$9.75. There are no setup or additional fees. (The Company does not furnish any devices.) No contract is required.
14. The Service Area is the New York City Housing Authority Queensbridge multi-tenant residential housing site (the "Site"). The Site is located within the New York City Borough of Queens, within ZIP code 11101. The Site is bounded by Vernon Boulevard, 40th Avenue, 21<sup>st</sup> Street, and Queensbridge Park Greenway.
15. The Company certifies that no party to this Petition is subject to a denial of federal



benefits that includes Commission benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

I declare under penalty of perjury the foregoing is the truth to the best of my knowledge, information, and belief.

dated: October 26, 2016

A handwritten signature in black ink, appearing to read 'Richard Sherwin', is written over a horizontal line.

Richard Sherwin

FOR PUBLIC INSPECTION



EXHIBIT "A"

FINANCIAL INFORMATION

[INFORMATION HAS BEEN REDACTED]